

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTIN CIOCIOLA,	:	CIVIL ACTION
Plaintiff,	:	
v.	:	
	:	
VINCE IACONE, Jr., Inc.,	:	
d/b/a Vince Iacone's Sunoco,	:	
Defendant.	:	No. 10-5471

ORDER

AND NOW, this 24th day of January, 2011, it is hereby **ORDERED** that Defendant Vince Iacone, Jr. Inc.'s Motion to Dismiss is **DENIED**.

It is further **ORDERED** that Iacone has leave to refile the portion of its Motion requesting dismissal for lack of jurisdiction pursuant to Rule 12(b)(6) as a motion for summary judgment, addressing the issue of whether Iacone fulfills the definition of an "employer" as that term is used in the Age Discrimination in Employment Act, 29 U.S.C. § 626(b).

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE